

### **REMARKS**

Claims 1-24 are pending in the above-identified application. Claims 1-24 were rejected. With this Response, no claims are added, canceled, or amended. Claims 1-24 remain at issue.

#### **I. 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claims 1-24 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Lee et al.* (U.S. Patent Pub. No. 2002/0169788, hereinafter "*Lee*"). Applicants respectfully traverse this rejection. Applicants note that this rejection is listed under a heading that says "Claim Rejections - §102." Clarification as to whether the rejection is under § 103 or §102 is requested for the record.

Applicants note that the filing date of the present application precedes the filing date of *Lee*. The Examiner relies on *Lee*'s priority claim to provisional application no. 60/182,939 to establish a critical reference date of February 16, 2000. However, the Examiner may only rely on the date of the provisional application if the provisional application properly supports the subject matter relied upon to make the rejection, in compliance with 35 U.S.C. 112, first paragraph. See MPEP § 2636.03. The Examiner has not established that provisional application no. 60/182,939 supports the subject matter relied upon in *Lee* to reject claims 1-24. Applicants respond to the rejection, but do not concede that such support exists.

Applicants respectfully submit that *Lee* fails to teach or suggest every limitation of claim 1. For example, *Lee* fails to teach or suggest "modifying one or more state attributes associated with said nodes to control merging and updating of layers to a resulting layered hierarchical database in response to said client request, wherein the one or more state attributes indicates a

last action taken on a corresponding data element.” The Examiner contends this limitation is taught by paragraphs 0233-0235 of *Lee*. Applicants respectfully disagree. *Lee* discloses “loading actions” that “describe how to fill the data in” “pattern mapping table into relational tables” for a “relational database”. See paragraph 0233 of *Lee*. The loading actions include a create action for creating a new tuple, and an update action for updating that tuple with the value of an attribute in an XML tree. See paragraphs 0234 and 0235 of *Lee*. However, *Lee* says nothing of “one or more state attributes indicates a last action taken on a corresponding data element.” Applicants note the XML tree of *Lee*, which describes the attributes, does not include any state attributes whatsoever. See Figure 14 of *Lee*. Moreover, the update loading action is merely an instruction to update a table with an attribute value, and cannot be construed as a state attribute that “indicates a last action taken on a corresponding data element.” Applicants further note that paragraph 0254 of *Lee* also fails to disclose a state attribute that “indicates a last action taken on a corresponding data element.”

Thus, Applicants respectfully submit that the features recited by claim 1 are neither taught nor suggested by *Lee*. Therefore, *prima facie* obviousness has not been established, and Applicants respectfully request that the rejection of claim 1 be withdrawn. With respect to claims 2-5, these claims depend from claim 1, and are therefore patentable at least for the same reasons.

For reasons stated above with respect to claim 1, Applicants submit that the rejection of independent claims 6, 11 and 16 should be withdrawn. With respect to claims 7-10, 12-15, 17-20, and 21-24, these claims depend from claims 6, 11, and 16 respectively, and are therefore patentable at least for the same reasons.

Furthermore, *Lee* fails to teach or suggest that “each one of said state attributes includes a value of one of default, replaced, modified, and deleted,” as recited in claims 3, 8, 13, and 18. The Examiner contends that this limitation is taught at paragraph 0282, lines 1-7, of *Lee*, which states:

The identifying sets articulating refinement further expresses multiple-value attributes into tables, in which a user can access each value instead of being able to access the whole value. For example, by breaking the IDREFS type attribute into tables with an IDREF typed column, normal joins can be performed to determine the referenced elements.

That passage says nothing of a state attribute having a “value of one of default, replaced, modified, and deleted.” If the rejection is maintained, Applicants request that the Examiner explicitly and completely describe how this limitation is taught or suggest by *Lee*. For this additional reason, claims 3, 8, 13, and 18 are patentable over *Lee*.

Moreover, *Lee* fails to teach or suggest that a “layered hierarchically organized database includes an organizational format corresponding to an organizational layout of an enterprise,” as recited in claims 21-24. The Examiner does not even attempt to point out where or how the reference teaches or suggests the above limitation. “When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” 37 C.F.R. § 1.104(c). Thus, the rejection is erroneous and should be withdrawn.

**II. Conclusion**

In view of the above amendments and remarks, Applicants submits that all claims are allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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